IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3803 OF 1994

Tatyasaheb Dnyanu Bhosale, .. Petitioner

Vs

Shivaji Pandu Bhosale & Anr. .. Respondents

Mr M.S.Lagu i/b Mr R.S.Apte, for the petitioner.

None for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 28.11.2005.

PC:

1. Heard the learned counsel for the petitioner. None appears for the respondents.

2. This petition arises from the orders passed by the authorities below on Exhibit-8-application filed by the petitioner-plaintiff under Order 39 Rule 1 and 2 of the Code of Civil Procedure Code, seeking injunction restraining the respondents-defendants from interfering with the plaintiff's Wahivat and enjoyment on the suit road ABC, as shown in the sketch annexed to the plaint. Exhibit-8-application was allowed by the trial Court vide order dated 17.2.1993. The appeal filed by the respondents-defendants was however, allowed by the

appeal court vide judgment and order dated 17.9.1993 against which the instant writ petition was filed by the petitioner.

3. This Court, while issuing notice to the respondents-defendants, had granted ad-interim relief in terms of prayer clause (c)® on 21.9.1994. The said ad-interim relief was confirmed while issuing rule on 7.2.1995. The prayer clause (c)® reads thus:

> (c) That pending the hearing and final disposal of this writ petition, the respondents by themselves, their servants and agents be restrained by an order and injunction of this Hon'ble Court from interfering with the petitioner's Wahiwat on the 8' road to and from Gat No.143 over the bund running east-west on the eastern side of Gat No.128 of village Pimpalwadi in taluka Kavathe-Mahankal, District- Sangli."

The interim order has been operating against the respondents since 21.9.1994. The learned counsel appearing for the petitioner has no instructions as to whether the suit is still pending. No efforts whatsoever were made by the respondents for getting the

interim order vacated. Keeping that in view and considering that the interim relief has been running in favour of the petitioner since 21.9.1994, I am satisfied that the following order shall meet the ends of justice.

(a) The interim order passed by this Court in terms of prayer clause (c) on 7.2.1995 shall remain operative until the disposal of Regular Civil Suit No.3 of 1993, if not disposed of already.

(b) The trial Court shall decide Regular Civil Suit No.3 of 1993, if still pending, as expeditiously as possible, preferably within a period of one year from the date of receipt of this order.

(c) The trial Court shall decide the said suit on merits in accordance with law and uninfluenced by the orders passed in the proceedings arising from Exhibit-8 application.

(d) Rule is, accordingly, disposed of.

(D.B.Bhosale,J.)